IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

EDGAR D. COFFIN, individually and on behalf of all other persons similarly situated,	:	Civil Action No. 1890-73
Plaintiff,	:	AFFIDAVIT IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO TRANSFER
v.	:	
SECRETARY OF HEALTH, EDUCATION, AND WELFARE,	:	
Defendant.	:	

STATE OF NEW JERSEY)
) ss.:
COUNTY OF ESSEX)

I, EDGAR D. COFFIN, residing at 75 Cumberland Avenue, Verona, New Jersey 07044, being duly sworn upon my oath according to law depose and say:

1. I am the Plaintiff in the above-captioned action.

2. I was born on July 27, 1903. My wife, Edna Elizabeth Coffin, was born on July 27, 1902. We were married on August 4, 1928. My wife died on September 6, 1970. I have not since remarried.

3. Prior to my retirement in August, 1964, I was employed as a policeman in New Jersey. My income (annual

rate) at the time of my retirement was $9,200. I was not insured under the Social Security Act and have never received old-age, survivor or disability insurance benefits under the Act. Since August, 1965 my principal income has been a state police fund pension, in the annual amount of $4,675.80.

4. Prior to her retirement in June, 1964, my wife was employed as a school teacher in the Passaic, New Jersey school system. Her income (annual rate) at the time of her retirement was $8,800. She was a fully insured individual under the Social Security Act at the time of her retirement. Upon her retirement, she began receiving a pension in the annual amount of $4,744.92 and "old age insurance benefits" under the Social Security Act. She continued to receive these benefits until her death.

5. Neither at the time of my wife's retirement, nor at the time of her death, nor at any time during my marriage, was I receiving at least one-half of my support from my wife.

6. Upon my wife's retirement and her application for "old age insurance benefits" we were informed that no benefits could be claimed by me on the basis of her earnings because the law allows such benefits only if the husband was dependent upon his wife for at least one-half his support at the time of her retirement.

7. In the fall of 1970, after my wife's death, I visited the Bloomfield, New Jersey Social Security Office to inquire whether I could file an application for widower's insurance benefits. A male interviewer at that office inquired as to my income and the income of my wife at the time of my wife's retirement and at the time of her death. I informed him that her annual income was $8,800 and that my annual income was $9,200 at the time of her retirement. I further informed him that our respective pensions were $4,744.92 and $4,675.80 annually. He then informed me that my income excluded any application for benefits.

8. On December 16, 1970, I wrote to my Congresswoman, Honorable Florence P. Dwyer, advising her that the Social Security Office had informed me I could not apply for insurance benefits on the basis of my wife's earnings. In this letter, I explained why I regarded this treatment as an inequity. (Exhibit B)

9. On February 4, 1971, I wrote to President Nixon, advising him that the Social Security Office had informed me I could not apply for insurance benefits on the basis of my wife's earnings. In this letter, I explained why I regarded this treatment as an inequity. (Exhibit C)

10. In March, 1971, I received a letter dated March 8, 1971 from Alvin M. David, Assistant Commissioner for Program Evaluation and Planning, Social Security Administration,

in reply to my letter to President Nixon. This letter informed me that under social security law wives and widows "are presumed to be dependent on the worker" but a husband or widower "must establish that he was supported by his wife." (Exhibit D)

11. In the summer of 1971, I visited the Social Security Office in Bangor, Maine, the office nearest East Holden, Maine, where I reside for part of the year. A female interviewer informed me that I remained ineligible for insurance benefits because I was not receiving at least one-half of my support from my wife at the time of her retirement or death. She stated that I was not entitled to file an application for insurance benefits on the basis of my wife's earnings, and she used as an illustration of my clear disqualification the following hypothetical example:

husband's income	$2,000
wife's income	4,000
Total	$6,000
1/2 of total	$3,000
less husband's income	$2,000
amount of income wife contributed to husband's support (1000/3000= 33-1/3% wife contributed to husband's support)	$1,000

12. On April 8, 1972, I wrote to Senator Margaret Chase Smith inquiring whether I could claim insurance benefits on the basis of my wife's earnings as a result of projected Social Security reforms. (Exhibit E)

13. In May, 1972, Senator Margaret Chase Smith forwarded to me a letter dated May 15, 1972 from Robert M. Ball, Commissioner of Social Security. This letter states, "Mr. Coffin's income was sufficiently high to indicate he was not financially dependent upon his wife and, consequently, could not be entitled to a widower's benefit based on his wife's earnings under the social security program." (Exhibit F)

14. At no time was I ever informed by any federal official or employee that any administrative procedure existed through which I could claim benefits. In response to my inquiries at Social Security Offices I was clearly informed that I was not eligible for benefits and could not apply for benefits.

15. I am informed and believe that a woman in my position would be entitled to insurance benefits on the basis of her spouse's earnings.

16. I am informed and believe that insurance benefits on the basis of my spouse's earnings have been and continue to be denied to me solely because of my sex.

Edgar D. Coffin

EDGAR D. COFFIN

Sworn before me this 8
day of December, 1973.

Walter J. Cheatle

NOTARY PUBLIC OF NEW JERSEY
My Commission Expires June 26, 1977

EXHIBIT F (pg. 1)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BALTIMORE, MARYLAND 21235

REFER TO: OPA:I

OFFICE OF THE COMMISSIONER

May 15 1972

Honorable Margaret Chase Smith
United States Senate
Washington, D.C. 20510

Dear Senator Smith:

This is in further reference to your inquiry on behalf of Mr. Edgar D. Coffin, Holbrook Pond, East Holden, Maine 04429.

As you know, wife's and widow's benefits are provided under social security for a woman who can be presumed to have been dependent on her husband during his working lifetime. When this provision under the law was enacted in 1939, many legislators recognized that some wives would work and earn their own benefits. They recognized, though, that a woman could not be completely dependent on her husband's and her own earnings at the same time. The law, therefore, provides that a woman who is eligible for a benefit as a wife (or widow) based on her husband's earnings, and for a retirement benefit based on her own earnings, cannot get both benefits in full. If a woman's retirement benefit is less than the wife's (or widow's) benefit, the difference between the two amounts is added to the benefit based on her own earnings. In effect, she gets an amount equal to the larger of the two.

The above provisions also apply to a dependent husband or widower. Under the law, a married woman is presumed to be dependent in part or wholly on her husband's earnings. However, the law requires that a husband or widower furnish proof of dependency on his wife. Based on the information in your letter, it appears that Mr. Coffin's income was sufficiently high to indicate that he was not financially dependent upon his wife and, consequently, could not be entitled to a widower's benefit based on his wife's earnings under the social security program.

The proposed change in the social security law contained in H.R. 1 that would increase widow's and widower's benefits will benefit only those

widows and widowers who are entitled after age 62 to such benefits. For a widow or widower becoming entitled to benefits at or after age 65, the benefit would be equal to 100 percent of the amount of the spouse's benefit at age 65, rather than 82 percent as under present law. For widows and widowers coming on the rolls between ages 62 and 65, benefit amounts would be reduced in a way similar to the way in which a worker's benefit is reduced if he becomes entitled to benefits before age 65. For example, the benefit amount for a widow becoming entitled to widow's benefits at age 63 would be 88.6 percent of her husband's age-65 benefit; for a widow becoming entitled at age 64, the amount would be equal to 94.3 percent of her husband's benefit. Since Mr. Coffin is not entitled to widower's benefits, the above proposed change in the law would not affect him.

Sincerely yours,

Robert M. Ball
Commissioner of Social Security